

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

Dana L. McCarrick  
1795 Riley Hill R.D.  
Pine City, N.Y. 14871  
 Name(s) of Plaintiff or Plaintiffs

Jury Trial Demanded: Yes ☐ No ☐

Corning Inc.  
1 Riverfront Plaza  
Corning, N.Y. 14871  
 Name of Defendant or Defendants

**DISCRIMINATION COMPLAINT**

**18 CV 6435 G**

You should attach a copy of your **original Equal Employment Opportunity Commission (EEOC) complaint**, a copy of the Equal Employment Opportunity Commission **decision**, **AND** a copy of the **"Right to Sue"** letter you received from the EEOC to this complaint. Failure to do so may delay your case.

**Note:** Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

This action is brought for discrimination in employment pursuant to (check only those that apply):

☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub.L.No. 102-166) (race, color, gender, religion, national origin).

**NOTE:** In order to bring suit in federal district court under Title VII, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub.L.No. 99-592, the Civil Rights Act of 1991, Pub.L.No. 102-166).

**NOTE:** In order to bring suit in federal district court under the Age Discrimination in Employment Act, you **must first file charges** with the Equal Employment Opportunity Commission.

☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117 (amended by the Civil Rights Act of 1991, Pub.L.No. 102-166).

**NOTE:** In order to bring suit in federal district court under the Americans with Disabilities Act, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

**JURISDICTION** is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub.L.No. 102-166, and any related claims under New York law.

In addition to the federal claims indicated above, you may wish to include New York State claims, pursuant to 28 U.S.C. § 1367(a).

\_\_\_\_\_  
New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

**PARTIES**

1. My address is: 11795 Riley Hill R.D., Pine City N.Y.  
14871

My telephone number is: 607-857-4402

2. The name of the employer(s), labor organization, employment agency, apprenticeship committee, state or local government agency who I believe discriminated against me is/are as follows:

Name: Corning Inc.

Number of employees: 20,000 to 25,000

Address: 1 River Front Plaza  
Corning, N.Y. 14831

3. (If different than the above), the name and/or the address of the defendant with whom I sought employment, was employed by, received my paycheck from or whom I believed also controlled the terms and conditions under which I were paid or worked. (For example, you worked for a subsidiary of a larger company and that larger company set personnel policies and issued you your paycheck).

Name: \_\_\_\_\_

Address: \_\_\_\_\_

**CLAIMS**

4. I was first employed by the defendant on (date): Aug 2012

5. As nearly as possible, the date when the first alleged discriminatory act occurred is: March 2015
6. As nearly as possible, the date(s) when subsequent acts of discrimination occurred (if any did): July 5th 2017 date of termination
7. I believe that the defendant(s)
- a.          Are still committing these acts against me.
- b.          Are not still committing these acts against me.
- (Complete this next item **only** if you checked "b" above) The last discriminatory act against me occurred on (date) \_\_\_\_\_
8. (Complete this section **only** if you filed a complaint with the New York State Division of Human Rights)
- The date when I filed a complaint with the New York State Division of Human Rights is 5 Aug 2017  
 (estimate the date, if necessary)
- I filed that complaint in (identify the city and state): Rochester, N.Y.  
NYSDHR
- The Complaint Number was: \_\_\_\_\_
9. The New York State Human Rights Commission did \_\_\_\_\_ /did not \_\_\_\_\_ issue a decision. (**NOTE:** If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
10. The date (if necessary, estimate the date as accurately as possible) I filed charges with the Equal Employment Opportunity Commission (EEOC) regarding defendant's alleged discriminatory conduct is: \_\_\_\_\_
11. The Equal Employment Opportunity Commission did \_\_\_\_\_ /did not \_\_\_\_\_ issue a decision. (**NOTE:** If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
12. The Equal Employment Opportunity Commission issued the attached Notice of Right to Sue letter which I received on: May 22, 2018. (**NOTE:** If it

**did** issue a Right to Sue letter, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

13. I am complaining in this action of the following types of actions by the defendants:

- a. \_\_\_\_\_ Failure to provide me with reasonable accommodations to the application process
- b. \_\_\_\_\_ Failure to employ me
- c. \_\_\_\_\_ Termination of my employment
- d. \_\_\_\_\_ Failure to promote me
- e. \_\_\_\_\_ Failure to provide me with reasonable accommodations so I can perform the essential functions of my job
- f. \_\_\_\_\_ Harassment on the basis of my sex
- g. \_\_\_\_\_ Harassment on the basis of unequal terms and conditions of my employment
- h. \_\_\_\_\_ Retaliation because I complained about discrimination or harassment directed toward me
- i. \_\_\_\_\_ Retaliation because I complained about discrimination or harassment directed toward others

j. \_\_\_\_\_ Other actions (please describe) title VII Americans with Disabilities Act and Article 15 Section 7 medical

14. Defendant's conduct is discriminatory with respect to which of the following (*check all that apply*):

- a. \_\_\_\_\_ Background Race
- b. \_\_\_\_\_ Color
- c. \_\_\_\_\_ Sex
- d. \_\_\_\_\_ Religion
- e. \_\_\_\_\_ National Origin
- f. \_\_\_\_\_ Sexual Harassment
- g. \_\_\_\_\_ Age \_\_\_\_\_ Date of birth
- h. \_\_\_\_\_ Disability  
Are you incorrectly perceived as being disabled by your employer?  
\_\_\_\_\_ yes \_\_\_\_\_ no

15. I believe that I was \_\_\_\_\_/was not \_\_\_\_\_ **intentionally** discriminated against by the defendant(s).

16. I believe that the defendant(s) is/are \_\_\_\_\_ is not/are not \_\_\_\_\_ still committing these acts against me. (If you answer is that the acts are not still being committed, state when: \_\_\_\_\_ and why the defendant(s) stopped committing these acts against you: \_\_\_\_\_)

17. **A copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of my claim.** (NOTE: You **must** attach a copy of the **original complaint** you filed with the Equal Employment Opportunity Commission and a copy of the **Equal Employment Opportunity Commission affidavit** to this complaint; failure to do so will delay initiation of your case.)

18. The Equal Employment Opportunity Commission (check one):

☐ **has not** issued a Right to sue letter

☒ **has** issued a Right to sue letter, which I received on May 22, 2018

19. State here as briefly as possible the *facts* of your case. Describe how each defendant is involved, including *dates* and *places*. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

Monica Rodriguez Brown stated "We don't want your kind around here". I was the victim of discrimination, retaliation and constructive termination. I was terminated upon returning from medical leave.

#### FOR LITIGANTS ALLEGING AGE DISCRIMINATION

20. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct \_\_\_\_\_ 60 days or more have elapsed \_\_\_\_\_ less than 60 days have elapsed

#### FOR LITIGANTS ALLEGING AN AMERICANS WITH DISABILITIES ACT CLAIM

21. I first disclosed my disability to my employer (or my employer first became aware of my disability on On my Application for employment)

22. The date on which I first asked my employer for reasonable accommodation of my disability is \_\_\_\_\_
23. The reasonable accommodations for my disability (if any) that my employer provided to me are: \_\_\_\_\_
24. The reasonable accommodation provided to me by my employer were \_\_\_\_/were not \_\_\_\_ effective.

**WHEREFORE**, I respectfully request this Court to grant me such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

Dated: 6/13/2018

Dana McFarrell

Plaintiff's Signature

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: Dana L. McCarrick  
11795 Riley Hill  
Pine City, NY 14871

From: New York District Office  
33 Whitehall Street  
5th Floor  
New York, NY 10004

☐

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

16G-2018-01511

Holly M. Shabazz,  
State & Local Program Manager

(212) 336-3643

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☒

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

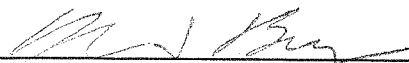
## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Kevin J. Berry,  
District Director

May 21, 2018

(Date Mailed)

Enclosures(s)

cc:

CORNING INC  
Attn: Director of Human Resources  
1 River Front Plaza  
Corning, NY 14831

Stephen J. Jones, Esq.  
Nixon Peabody LLP  
1300 Clinton Square  
Rochester, NY 14604